

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Prince Post Office
Prince, West Virginia

Docket No. A2012-61

ORDER AFFIRMING DETERMINATION

(Issued February 24, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 8, 2011, Charles Armentrout (Petitioner Armentrout) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Prince, West Virginia post office (Prince post office).² An additional petition for review was received from Charles A. Addison (Petitioner Addison).³ The Final Determination to close the Prince post office is affirmed.⁴

II. PROCEDURAL HISTORY

On November 28, 2011, the Commission established Docket No. A2012-61 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

On November 23, 2011, the Postal Service filed the Administrative Record with the Commission.⁶ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁷

² Petition for Review received from Charles Armentrout regarding the Prince, West Virginia Post Office 25907, November 8, 2011 (Armentrout Petition).

³ Petition for Review received from Charles A. Addison regarding the Prince, West Virginia Post Office 25907, November 30, 2011 (Addison Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1002, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 28, 2011.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 28, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Prince, WV Post Office and Establish Service by Rural Route Service (Final Determination).

⁷ United States Postal Service Comments Regarding Appeal, January 3, 2012 (Postal Service Comments).

On January 18, 2012, the Public Representative filed a reply brief.⁸

III. BACKGROUND

The Prince post office provides retail postal services and service to 74 post office box customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The Prince post office, an EAS-55 level facility, provides retail service from 8:00 a.m. to 11:30 a.m., and 12:00 p.m. to 3:00 p.m., Monday through Friday, and 8:30 a.m. to 12:00 p.m. on Saturday. *Id.* Lobby access hours are 8:00 a.m. to 3:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday. *Id.*

The postmaster position became vacant on March 31, 2010, when the Prince postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 6. Retail transactions average seven transactions daily (six minutes of retail workload). *Id.* Office receipts for the last three years were \$6,657 in FY 2008; \$5,125 in FY 2009; and \$4,715 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$33,838 annually. *Id.* at 6.

After the closure, retail services will be provided by the Beckley post office located approximately 9 miles away.⁹ Delivery service will be provided by rural route service to cluster box units (CBUs), through the Beckley post office. Final Determination at 2. The Beckley post office is an EAS-22 level office, with retail hours of 8:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 1:00 p.m. on Saturday. *Id.* Two thousand and sixty post office boxes are available. *Id.*

Retail services will also be available at the Piney View post office located approximately 5 miles away.¹⁰ The Piney View post office is an EAS-11 level office,

⁸ Reply Brief of the Public Representative, January 18, 2012 (PR Reply Brief).

⁹ *Id.* at 2. MapQuest estimates the driving distance between the Prince and Beckley post offices to be approximately 14.4 miles (27 minutes driving time).

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the Prince and Piney View post offices to be approximately 5.8 miles (9 minutes driving time).

with retail hours of 7:30 a.m. to 11:30 a.m. and 12:30 p.m. to 4:15 p.m., Monday through Friday, and 8:00 a.m. to 10:45 a.m. on Saturday. *Id.* One hundred and thirty one post office boxes are available. The Postal Service will continue to use the Prince name and ZIP Code. *Id.* at 2-3, Concern No. 3.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Prince post office. Petitioner Armentrout asserts that closing the post office would be a burden to the Prince community, many of whom are senior citizens. Armentrout Petition at 1. Petitioners contend it would be a hardship for the many elderly or disabled Prince residents to travel to another post office to obtain services. *Id.* at 1; Addison Petition at 1. Petitioner Addison notes that driving on the twisting mountain roads becomes treacherous in the winter. *Id.* at 1-3.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Prince post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services, and (2) the impact on the Prince community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Prince post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Prince post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low and decreasing office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- no projected growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Prince community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Prince community, economic savings, and effect on postal employees. *Id.* at 13.

Public Representative. The Public Representative concludes that the Postal Service has followed applicable procedures, that its decision to close the Prince post office is supported by substantial evidence, and is not arbitrary or capricious, and that the decision should be affirmed. PR Reply Brief at 5-6.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given

60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 18, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Prince post office. Final Determination at 2. A total of 90 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 24 questionnaires were returned. *Id.* On April 19, 2011, the Postal Service held a community meeting at the Prince post office to address customer concerns. *Id.* Nine customers attended. *Id.*

The Postal Service posted the proposal to close the Prince post office with an invitation for comments at the Prince, Piney View, and Beckley post offices from June 14, 2011 through August 15, 2011. Final Determination at 2. The Final Determination was posted at the same three post offices from October 7, 2011 through November 8, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Prince, West Virginia is an unincorporated community located in Fayette County, West Virginia. Final Determination at 5. The community is

administered politically by the Fayette County Commission. *Id.* Police protection is provided by the West Virginia State Police and Fayette County Sheriff's Department. *Id.* Fire protection is provided by the Danese Volunteer Fire Department. *Id.* The community is comprised of retirees, the self-employed, railroad employees and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Prince community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Prince post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5.

Petitioner Armentrout raises the issue of the effect of closure on the Prince community. Armentrout Petition at 1. The Postal Service responds that this issue was extensively considered by the Postal Service and that a community's identity derives from the interest and vitality of its residents and their continued use of its name. Postal Service Comments at 11. The Postal Service states that it is addressing this concern by preserving the Prince name and ZIP Code in addresses. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Prince postmaster retired on March 31, 2010 and that an OIC has operated the Prince post office since then. Final Determination at 5. It asserts that after the Final Determination is implemented, the non-career postmaster relief (PMR) may be separated and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Prince post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Prince customers. Postal Service Comments at 5. It asserts that customers of the closed Prince post office may obtain retail services at the Beckley post office located nine miles away. Final Determination at 2. Delivery service will be provided by rural route service to CBUs, through the Beckley post office. *Id.* The Prince post office box customers may obtain Post Office Box service at the Beckley post office, which has 2,060 boxes available. *Id.*

For customers choosing not to travel to the Beckley post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners contend it would be difficult for Prince residents to travel to another post office to obtain services, particularly as the mountain roads become hazardous in winter. Armentrout Petition at 1; Addison Petition at 1-3. The Postal Service responds that it is unnecessary to travel to another post office to obtain services available from the rural route carrier. Postal Service Comments at 9. The Postal Service states that service will be to CBUs, which will be installed in the Prince community, and residents will not have to travel to another post office to pick up their mail, or to obtain postal services. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$33,838. Final Determination at 6. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,740) and annual lease costs (\$8,766) minus the cost of replacement service (\$5,668). *Id.* The Postal Service states that a one-time expense of \$4,800 will be incurred for the movement of this facility. *Id.*

The Prince post office postmaster retired on March 31, 2010. *Id.* at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Prince post office has been staffed by an OIC for approximately 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Prince post office is affirmed.¹¹

It is ordered:

The Postal Service's determination to close the Prince, West Virginia post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

¹¹ See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Prince post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on March 31, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12,

2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Prince, West Virginia and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since March 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the current lease does not terminate until November 30, 2013, and does not have a 30-day termination clause. Administrative Record, Item No. 15 at 1. The Postal Service should note that any savings from the lease will not be realized for nearly 2 years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Prince post office and should be remanded.

Nanci E. Langley